THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.1882 OF 2006

DATED:1.2.2006

Between:

Yamasani Sanjay Rao

…Petitioner

And

The Municipal Corporation of Hyderabad

Tankbund, Hyderabad, represented by its

Commissioner & Special Officer

and another

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.1882 OF 2006

ORDER:

The petitioner, along with his father and mother, is running a hospital in the name and style of "Lakshmi Hospital" at S.P.Road, Secunderabad. In connection widening of S.P.Road from Hyderabad Public School to Y.M.C.A. to 150' as per the Zonal Development Plan, first respondent issued a notice on 14.6.2005 requesting the petitioner to give consent to handover advance possession of the affected area. The petitioner did not do so as he is not willing to give consent. Again on 9.12.2005 similar notice was issued to the petitioner. The petitioner addressed a communication on 3.1.2006 informing that if the affected area is handed over, the hospital will be left with the area of 88 Sq.yards where it would not be possible to run the hospital. For this reason, the petitioner and his father declined to give consent. It

is alleged that in spite of the petitioner expressing his unwillingness to part with the land, the officials of the respondent Corporation came to the premises on 29.1.2006 and highhandedly dismantled the walls on the front portion of the building. Apprehending further demolition of the building, the petitioner invoked the writ jurisdiction of this Court seeking a direction to the respondents not to demolish the remaining portion of the building.

It has been repeatedly held by this Court in **P.Lakshmana Rao v. Executive Officer** and **M.Madhavi Latha v. Rajendranagar Municipality** and **Srichand Rohra v. Commissioner, Municipal Corporation of Hyderabad** that whenever a public purpose is mooted and the land is to be acquired, public authorities and the Municipal Corporations cannot highhandedly demolish the structures or take possession of the land required for laying/widening the road. They have to necessarily issue notice and negotiate with the owners and in the event of owners not willing to part with the possession of affected area, Municipal Corporation has to resort to provisions of the Land Acquisition Act, 1894 (LA Act) or the relevant law. In this case, presumably in accordance with Section 146 of the Hyderabad Municipal Corporations Act, 1955 (HMC Act), first respondent issued notice to the petitioner's father in June 2005 and December 2005 and when the petitioner did not give consent it was incumbent on the Municipal Corporation of Hyderabad (MCH) to initiate action under Section 147 of the Act. It was not done. The learned Standing Counsel for MCH submits that the land occupied by the petitioner is municipal land. Even then, the MCH has to issue notice.

Therefore, this Writ Petition is disposed of observing that unless and until the MCH initiates action under the provisions of LA Act in accordance with Section 147 of the HMC Act, the petitioner cannot be deprived of his right to enjoy the property nor MCH can demolish the structures. There shall be *status quo* as on today. Liberty is given to MCH to proceed in accordance with law.

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(V.V.S.RAO, J)

1.2.2006

bnr

Note:Operative portion of the order

may be communicated by WIRE

at party's cost.

(B.O)

bnr